SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:		January 12, 2010		
Time of Incident:		4:15 am		
Location of Incident:		Chicago IL, 60655		
Date of COPA No	tification:	October 25, 2017		
Time of COPA Notification:		12:01 pm		
at Officer h Jr attempted suicide dispatch, CPD Dete statements under of contradict the physic	ome after having was shot with or possibly an ectives, IPRA, a path regarding	d more credible statements by other witness	s investigated as an tatements to 9-1-1 Officer made material statements	
Involved Officer #	it:	Star # Employee II 2004, Police Officer, DOB: Male, White	D# DOA:	
Subject #1		Jr., DOB:	Male, White	
III. ALLEG	GATIONS			
Officer	Allega	tion	Finding	
Officer		eged that Officer star knowingly made false statements while bath, regarding the amount of alcohol he	Sustained	

drank between the night of January 11, 2010, and

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

the morning of January 12, 2010. Specifically, on May 4, 2012, Officer gave a deposition under oath, at 33 N. LaSalle Street, Chicago, Illinois, in the civil case v. City of Chicago, 10 L 11901 (Circuit Court of Cook County, Illinois, Law Division) (later removed to U.S. District Court as v. City of Chicago, 14 CV 9665 (N.D. Ill.)) and gave the following answers in response to the following questions:

- Q. Your testimony is that you had approximately two 12-ounce beers at true?
- A. Two beers at the most at
 - Q. And approximately two beers at _____, true?
 - A. True.
 - Q. In addition to that you had less than one bottle at your home before the incident occurred, true?
 - A. True.
 - Q. So in total, your testimony here today is that you consumed approximately four to five bottles of beer the entire evening from approximately, again, estimate, from 11:00 p.m. on January 11, 2010, through approximately 4:15 the morning of January 12th?
 - A. Yes.
 - Q. Do you want to add to the number of bottes that you drank or to the drinks that you had or deduct from that after I move on from here?

A. No.	
Allegation 2	Sustained
It is alleged that Officer knowingly made false statements while under oath about whether he was intoxicated on January 12, 2010, at 4:15 a.m. Specifically, when he gave the following answers in response to the following questions:	
A. I disagree with when she ² states I was highly intoxicated and that I was belligerent. (sic)	
Q. And it's your opinion that you were not intoxicated at the time of the incident, correct?	
A. I believe I wasn't.	
Q. So would I be correct that you are unaware of the personal feeling of what it is to be intoxicated, is that true?	
A. True.	
144	
Q. You have never been intoxicated prior to January 11, 2010, correct?	

A. Correct.	
Q. When you arrived at your house after leaving and	

² "She" refers to Sergeant who arrested Officer that night and indicated in her report that he was "highly intoxicated" when the police arrived on scene.

before the incident, in your opinion were you intoxicated?

- A. No.
- Q. So your opinion is that you were not intoxicated, correct?
- A. Correct.

Allegation 3

It is alleged that on January 11, 2011, at 10 W. 35th Street, **Officer** star made false statements to IPRA regarding his intoxication in the morning of January 12, 2010. Specifically, when Officer offered the following answer to the following questions:

- Q. ... were you intoxicated at this point?
- A. No I don't think so. I'm not really sure if I was or not.
- Q. Okay. Um, and were you intoxicated while you were off duty?
- A. I, I don't think so, I'm not sure.

Allegation 4

It is alleged that on January 12, 2010, at 727 E.

111th Street, **Officer** star

destroyed evidence by urinating on his hands in lockup prior to the administration of a GSR swab.

Sustained

Not Sustained

CIVILIAN OFFICE OF POLICE ACCOUNTABILITY		LOG#1087256	
IV.	APPLICABLE	RULES AND LAWS	
Rules			
Rule 2:		nduct which impedes the Department's efforgs discredit upon the Department.	rts to achieve its policy
Rule 14:		g a false report, written or oral.	
V.	INVESTIGAT	ION	
٧.	a. Interviews		
that on Ja: responded that when	nuary 12, 2010, at to a dispatch call she arrived on sc and attempted to	t approximately 4:39 a.m., while on duty and of a person shot near ene she approached Officer who was to calm him down and control him. However gerent, combative, and smelled of alcohol. ³	Sergeant stated stated near the back of the
Division, approxima Troy. Upo very chaot that she as departmentighly into	on October 29, 20 ately 4:30 a.m., shon arriving at the stic" and that "we sked Officer at personnel, but hoxicated based on	stated States District Court, Northern District Stated that on January stated that on January stated stated "we had to compare several times to stop obstructing the EMTs are would not stop. Sergeant describe the strong odor of alcohol. She further quantivestigated cases of DUI and other intoxicated and stated "we had to compare the EMTs are would not stop. Sergeant describe the strong odor of alcohol. She further quantivestigated cases of DUI and other intoxicated the strong odor of alcohol.	ary 12, 2010, at at or near 107 th and ontrol the scene. It was ant further stated and/or the fire sed Officer as lified her assessment that

Attachment 26
 Att. 47; Pg. 56 Lines 3-6
 Att. 47; Pg. 56 Lines 15-18
 Attachment 47

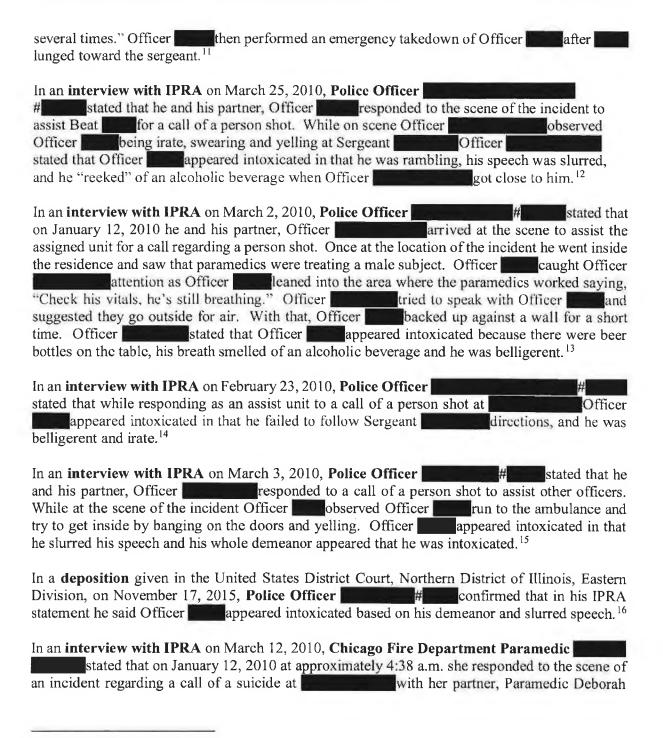
In an interview with IPRA on February 19, 2010, Police Officer # stated that on January 12, 2010 at approximately 4:39 a.m. he responded to a dispatch of a person shot called in by an off-duty officer. Upon arrival at the scene, Officer entered the residence. Officer stated that he saw Officer and that as fire personnel put onto the stretcher Officer was yelling and screaming frantically. Officer further stated that Officer was obviously intoxicated and that he could smell alcohol on him. Officer was belligerent and "every other word was profanity."
In a deposition given in the United States District Court, Northern District of Illinois, Eastern Division, on October 14, 2015, Officer # stated that on January 12, 2010 between 4:00 a.m. and 05:00 a.m. he and his partner Officer # responded to a radio call that stated the incident was called-in by an off-duty officer. Officer stated that in an interview with IPRA he indicated that when he arrived Officer was yelling and screaming frantically, and that based on his actions and appearances he could tell Officer was intoxicated. During his deposition Officer could not independently remember much of the incident and relied heavily on his IPRA interview to refresh his recollection.
In an interview with IPRA on February 9, 2010, Police Officer stated that on January 12, 2010 he and his partner, Officer OEC call of a man shot in the head. Upon arrival at the scene of the incident Officer observed Officer and described him as being highly intoxicated, belligerent and uncooperative. Officer stated that there was alcohol all over the room and Officer had a slight odor of alcohol about him.9
In an interview with IPRA on April 1, 2010, Police Officer # stated that on January 12, 2010 she and her partner, Officer responded to a call of a person shot at At the scene of the incident Officer observed Officer trying to get inside the ambulance that was transporting Officer indicated that Officer appeared intoxicated because his actions were aggressive and he was loud and emotional. 10
In an interview with IPRA on February 19, 2010, Police Officer that on January 12, 2010 he and his partner, Officer responded to a call of a person shot to assist the officers assigned. Upon arriving at the scene at the officer stated that when he encountered Officer that outside of the residence he could smell the odor of an alcoholic beverage about Officer and that Officer slurred his speech. Officer stated that Officer that officer that officer that officer the odor of an alcoholic beverage about Officer that officer

⁷ Attachment 49

⁸ Attachment 48

⁹ Attachment 24

¹⁰ Attachment 22



¹¹ Attachment 44

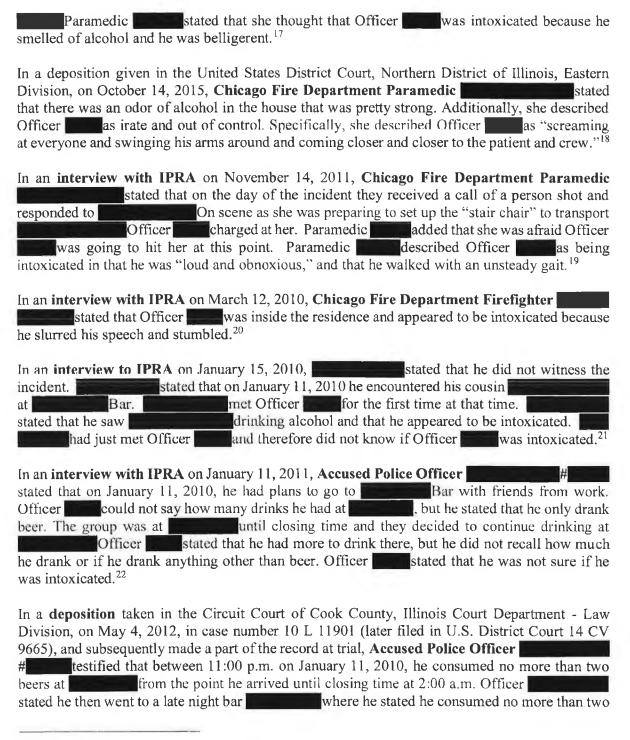
¹² Attachment 20

¹³ Attachment 21

¹⁴ Attachment 23

¹⁵ Attachment 25

¹⁶ Attachment 36



¹⁷ Attachment 27

¹⁸ Attachment 31

¹⁹ Attachment 42

²⁰ Attachment 29

²¹ Attachment 46

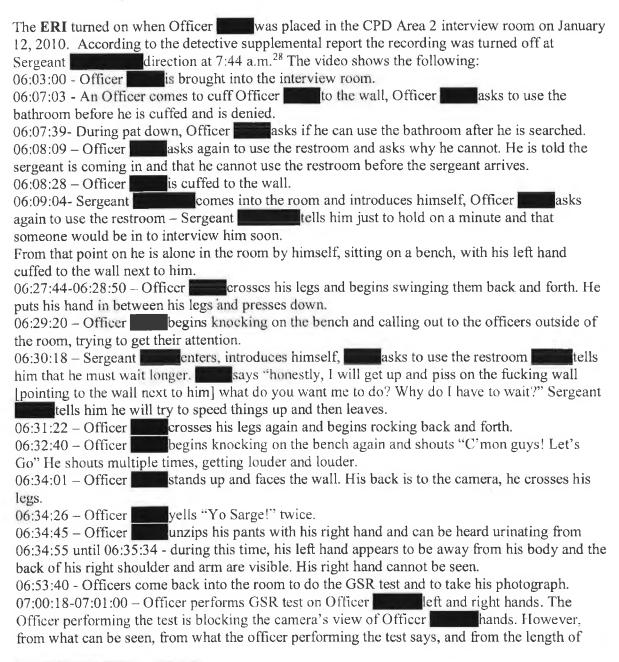
²² Attachment 35

beers before returning to his house. He further stated that he opened a beer after returning home from but consumed less than a full beer. Officer agreed that he consumed a total of approximately four to five 12-oounce beers from 11:00 p.m., January 11, 2010, through 4:15 a.m., January 12, 2010. Officer answered no when asked if he had ever been intoxicated prior to January 11, 2010, and that it was true he was unaware of the personal feeling of being intoxicated. Officer added that when he left and arrived at his house he was not intoxicated. Officer also gave the following testimony about intoxication: Q. When you arrived at your house after leaving and before the incident, in your opinion, were you intoxicated? A. No.
Q. So your opinion is that you were not intoxicated, correct?
 A. Correct. Q. Are you familiar with what the legal level of intoxication is in the state of Illinois? A. Yes.
Q. What is it? What's your understanding of what that .08 level does to somebody in terms of
impairment? A. That is when the signs of intoxication are apparent.
Officer agreed that .09 ²³ was above the legal limit for intoxication in Illinois. He testified that he had not had anything to drink or taken mouthwash in the seven or eight hours between the shooting and the breathalyzer test.
Q: Would you agree that if the number is correct point 093, it would indicate that you were intoxicated approximately eight hours after the event, correct?
A: It could indicate that, yes. ²⁴
In an interview with COPA on January 23, 2018, Accused Police Officer was confronted with the relevant portions of his prior statements from his January 11, 2011 interview with IPRA and his May 4, 2012 deposition. Officer was asked if he stood by his prior statement or wanted to add to or amend of the statements. For all of the prior statements presented Officer declined to add or amend his statements and stated his answers were truthful. Additionally, Officer stated when he was placed in the interview room he requested multiple times to use the restroom. Eventually, Officer urinated in the interview room however he stated that he did not urinate on his hands or in an effort to destroy evidence. 25
In a deposition given in the United States District Court, Northern District of Illinois, Eastern Division, taken November 23, 2015, Sergeant # stated that in January of 2010 he was a violent crimes supervisor with the detectives' division. On January 11, 2010, Sergeant stated that after viewing the Electronically Recorded Interview (ERI) he

On January 12, 2010 a breathalyzer test of Officer showed a BAC of .093. See attachment 33
 Attachment 34
 Attachments 51-53

observed Officer urinating in the interview room in Area 2²⁶ prior to the GSR kit being administered. However, Sergeant did not know if Officer urinated on his hands or took any steps to contaminate or remove debris or evidence from his hands.²⁷

a. Digital Evidence



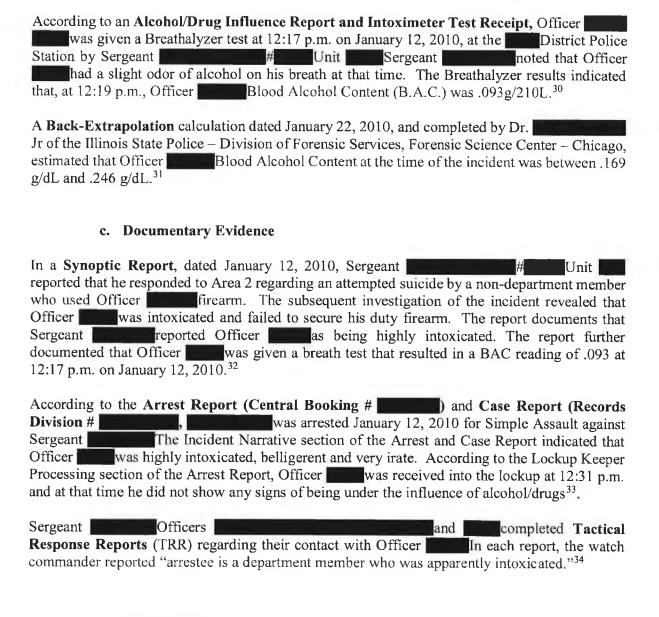
²⁶ Area 2 is now known as Area South

²⁷ Attachment 32

²⁸ Attachment 55

time administering the test – it appears that the Officer is only testing Officer hands and not his wrists or forearms.²⁹

b. Physical Evidence



²⁹ Attachment 9

³⁰ Attachments 30, 33

³¹ Attachment 28

³² Attachment 50

³³ Attachments 43, 45

³⁴ Attachments 37-41

VI. ANALYSIS

COPA recommends a finding of **Sustained** for **Allegation 1** against **Accused Police Officer** that he provided a false statement during a sworn deposition in that he only had four to five 12 ounce beers between 11:00 p.m. on January 11, 2010, and 4:15 a.m. on January 12, 2010.

Chicago Police Rule 14 prohibits the falsification of any report, written or oral. The relevant section of the Collective Bargaining Agreement (herein CBA) 6.1 M. states that a Rule 14 violation will be charged when, "the Officer willfully made a false statement; and (2) the false statement was made about a fact that was material to the incident under investigation."

In sum, Officer gave a sworn statement under oath in which he claimed he was not intoxicated after leaving bar, arriving at his house just prior to when was shot. These statements are contradicted by several eye witnesses and contradicted by Officer BAC of 0.093g/210L taken at 12:17 p.m. on January 12, 2010. For reasons stated below, the evidence supports the accuracy of the back extrapolation performed by the ISP toxicologist. However, back extrapolation notwithstanding, it is clear, and Officer agreed at deposition, that a BAC of .093 "could" indicate he was intoxicated at 12:17 p.m. the next day.

ISP's back extrapolation estimated BAC at the time of the incident was between .169 g/dL and .246 g/dL. Back extrapolation is most reliable when an individual is in the elimination phase – after the body stops absorbing alcohol – which can be between 15 and 90 minutes after an individual's last drink. Here, Officer last drink was sometime before 4:15 a.m., and the breathalyzer was not administered until nearly eight hours later. During the intervening eight hours, Officer was in police custody, thus we know he did not have any additional alcohol. Accordingly, it is more probable than not that Officer was between two times and three times the legal limit of intoxication at the time of the shooting and the police and EMT response to his house. His statements under oath and to IPRA that he was not intoxicated were false.

Moreover, Officer stated that he had a total of four to five 12 oz. beers³⁶ from 11:00 p.m. on January 11, 2010, through 4:15 a.m. on January 12, 2010. In direct contrast, the fact that Officer had a BAC of 0.093 at 12 p.m., eight hours after the shooting, would be impossible had he only drank five beers during a five-hour period and stopped consuming alcohol eight hours prior to providing a sample for the breathalyzer. Even using the conservative estimate of the range for the back extrapolation of .169 g/Dl, five beers over that five-hour period is simply not consistent. According to the National Highway Traffic Safety Administration (NHTSA)³⁷, one 4.5% alcohol by volume (ABV) beer only raises a 200-pound person's BAC by 0.02, while the average person's BAC decreases 0.015 percentage each hour after drinking. Officer stestified he was out drinking for five hours and only drank five light beers – two between 11:00 p.m. and 2:00 a.m., two between 2:00 a.m. and 4:00 a.m., and less than one between 4:00 a.m. and 4:15 a.m. If this were true, his BAC would have been around 0.025 around 4:15 a.m., and would have been zero by 6:30 a.m. Assuming, arguendo, Officer only drank five beers, and drank all five of those

³⁵ People v. Floyd, 2014 IL App 2d 120507.

noted that he drank Miller Lite or Bud Light. Three bottles of "Bud light" and 2 bottles of "Full Moon" were recovered from home

³⁷ "Approximate Blood Alcohol Content (BAC) In One Hour" table by NHTSA, attached hereto as Exhibit 1.

p.m. his BAC would have been a 0.0. Instead, Officer BAC was still 0.093 at approximately 12:15 p.m. It is impossible that Officer only alcohol intake between 11:00 p.m. and 4:15 a.m. was four beers.
For the same reasons stated in support of the findings for Allegation 1, COPA recommends a finding of Sustained for Allegation 2 against Accused Police Officer that he provided a false statement under oath that he was not intoxicated while off duty the night of January 11, 2010, and the morning of January 12, 2010.
For the same reasons stated in support of the findings for Allegation 1 and 2, COPA recommends a finding of Sustained for Allegation 3 against Accused Police Officer ####################################
that Officer destroyed evidence by urinating on his hands in lockup prior to the administration of a GSR swab. No one witnessed or testified that they witnessed Officer urinating on his hands. From review of the ERI, there is insufficient evidence to conclude that Officer was deliberately attempting to urinate on his hands. Officer asked to use the washroom multiple times and was in the interview room alone for 20 minutes prior to urinating against the wall. It is logical that if Officer was trying to destroy evidence, he would have acted as soon as he had the opportunity to do so. Instead Officer asks everyone who comes into the room if he can use the washroom, and then yells out multiple times before standing up to urinate against the wall. While he is urinating, Officer left hand is visible the entire time. While Officer right hand is not visible, there is insufficient evidence to conclude that he intentionally urinated on his hand to destroy evidence.
VII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS
a. Officer
i. COPA has reviewed Officer Complimentary and Disciplinary History.
ii. Recommended Penalty, by Allegation
1. Allegation No. 1
Based on the egregious nature of the allegation, COPA recommends that Officer separated from the Chicago Police Department.
2. Allegation No. 2
Based on the egregious nature of the allegation, COPA recommends that Officer be separated from the Chicago Police Department.

3. Allegation No. 3

Based on the egregious nature of the allegation, COPA recommends that Officer separated from the Chicago Police Department.

VIII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding Sustained
Officer	1. Provided false statements in violation of rule 14 (see above)	
	2. Provided false statements in violation of rule 14 (see above)	Sustained
	3. Provided false statements in violation of rule 14 (see above)	Sustained
	4. Attempted to destroy evidence by urinating	Not
	on his hands prior to GSR test was performed.	Sustained

Approved:

Sydney R. Roberts Chief Administrator 9/20/18 Date

Appendix A

Assigned Investigative Staff

Squad#

Investigator:

Supervising Investigator:

Deputy Chief Administrator:



Approximate Blood Alcohol Content (BAC) In One Hour

Source: National Highway Traffic Safety Administration Drinks Influenced **Body Weight In Pounds** 100 180 200 220 240 120 140 160 .02 .05 .03 .03 .03 .02 .02 1 .04 Possibly 2 .07 .04 .06 .05 .05 .04 .06 .06 3 .07 **Impaired** 4 18 5 6 1 Legally-PROTECTION AND LOCAL PROPERTY. 8 9 10

Subtract .015 for each hour after drinking.

One drink equals 1.5 oz. of 80 proof liquor (40%), 12 oz. beer (4.5%), or 5 oz. wine (12%). Note: The figures are averages and may vary based on the amount of food in your stomach.